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Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: TIMCO Electrical Power & Controls, Inc.

File: B-248308

Date: August 6, 1992

Ron Huebel for the protester,
Lester Edelman, Esq., Department of the Army, for the
agency.
John Formica, Esq., and James A. Spangenberg, Esq., Office
of the General Counsel, GAO, participated in the preparation
of the decision.

DIGEST

Where an invitation for bids issued to replace electrical equipment destroyed by fire and explosion required the submission of descriptive literature to establish that equipment being offered was compatible with existing equipment and in conformance to the solicitation's specifications, a bid, which did not include the required descriptive literature, was properly rejected as nonresponsive.

DECISION

TIMCO Electrical Power & Controls, Inc. protests the rejection of its bid as nonresponsive and the subsequent award of a contract to C.G.I. Systems under invitation for bids (IFB) No. DACW57-92-B-0018, issued by the Army Corps of Engineers for electrical equipment for the John Day Lock and Dam in Rufus, Oregon. TIMCO's bid was rejected as nonresponsive because the firm failed to submit descriptive literature with its bid showing that its equipment was compatible with existing equipment at the dam.

We deny the protest.

The IFB was issued on January 16, 1992, for electrical equipment needed to replace equipment destroyed by fire and explosion. The IFB contained the standard provision advising that descriptive literature, including drawings and brochures, must be included with the bid, and that failure to submit descriptive literature showing that the equipment offered conformed to the requirements of the solicitation required rejection of the bid. See Federal Acquisition Regulation § 52.214-21. Specifically, the IFB required that bids include: (1) "[c]atalog cuts and descriptive literature covering details of construction of the . . .

switchgear assemblies"; (2) "[d]rawings or sketches showing the general arrangement and overall dimensions of the . . . switchgear"; and (3) "[d]rawings or sketches showing cross sections, construction details, and dimensions of the . . . bus,¹ disconnect links, fire-resistant barriers, vapor barriers, and access covers." The IFB noted that drawings were available from the agency, and that the use of these "drawings with supplemental information, data, significant exceptions, materials, dimensions, etc. clearly depicted and noted instead of completely original drawings by the bidder will be acceptable."

The agency received nine bids by the January 31, 1992, bid opening date, with TIMCO submitting the low bid. Upon review of TIMCO's bid, the agency found that TIMCO had failed to submit with its bid any drawings or sketches of the switchgear and bus, and that the catalog cuts TIMCO did furnish were not sufficient to determine whether the construction of the circuit breaker and bus conformed to the IFB specifications. The agency thus rejected TIMCO's bid as nonresponsive.

TIMCO states that it did not believe that it was required to submit any drawings or sketches with its bid because it did not plan on taking any exception to the drawing package furnished by the agency. The protester explains that it "routinely build[s] equipment to customer specifications taking no exceptions." TIMCO has not rebutted the agency's contention that the catalog cuts the protester furnished with its bid were insufficient to show that its equipment conformed to the solicitation requirements.

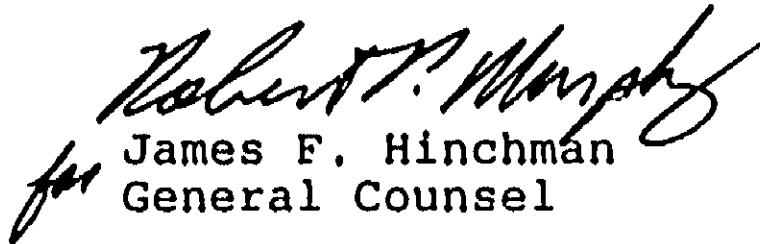
Where descriptive literature is required by a solicitation to establish the bidder's conformance to the specifications, and bidders are so cautioned, a bid must be rejected if the bidder fails to submit the required descriptive literature, BSC Indus., Inc., B-237299, Feb. 5, 1990, 90-1 CPD ¶ 152, or if the literature submitted fails to show that the offered equipment conforms to the specifications in the areas for which the literature was requested or shows that the offered equipment otherwise does not comply with the specifications. JoaQuin Mfg. Corp., B-228515, Jan. 11, 1988, 88-1 CPD ¶ 15.

The agency properly rejected TIMCO's bid. The IFB clearly required that bids include descriptive literature--specifically, catalog cuts covering the construction of the equipment offered and drawings or sketches showing the equipment's general arrangement and overall dimensions--and

¹A bus is a conductor or assembly of conductors for collecting and distributing electrical currents.

TIMCO simply failed to submit descriptive literature establishing its equipment's conformance to the IFB specifications. Since TIMCO did not submit any drawings or sketches with its bid, or indicate on its bid that it would manufacture and supply equipment per the agency's drawings, the agency had no way of knowing the arrangement and overall dimensions of the equipment being offered by TIMCO and no assurance that the offered equipment was compatible with existing equipment at the dam. Further, as the protester has not disputed the agency's determination that it could not be determined from the catalog cuts submitted by TIMCO whether the construction of the offered equipment conformed to the IFB requirements, we have no basis on which to disagree with the agency's determination in this regard. See Southeast Crane and Monorail Sys., Inc.; Southern Sys., Inc., B-227080.2; B-227080.3, Oct. 26, 1987, 87-2 CPD ¶ 392. TIMCO's post-bid opening explanation of the meaning of its bid does not overcome TIMCO's failure to submit with its bid sufficient information showing that its offered equipment conforms to the specifications. Lyntronics Inc., B-241696, Feb. 6, 1991, 91-1 CPD ¶ 131.

The protest is denied.


for James F. Hinchman
General Counsel